

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

D.J., a minor by Raven Patrick, his duly appointed)
Next Friend, and RAVEN PATRICK, Individually)

Plaintiffs,)

v.)

ST. LOUIS UNIVERSITY,)

And)

SSM HEALTHCARE ST. LOUIS,)

And)

UNITED STATES OF AMERICA)

Defendants.)

Case No.

JURY TRIAL DEMANDED

COMPLAINT

COUNT I

COMES NOW Plaintiff, D.J. and for Count I of his cause of action against defendants, and each of them, states and alleges as follows:

1. Plaintiff, D.J., is a minor under the age of eighteen years, to-wit: 11 months, and brings his cause of action by and through Raven Patrick, his mother and duly appointed next friend.

2. Defendant St. Louis University is an entity organized and existing according to law; that said defendant conducts and does business as the Saint Louis University in the City and County of St. Louis, Missouri.

3. Defendant SSM Health Care St. Louis is an entity organized and existing according to law, that said defendant, among other things, conducts and does business as SSM St. Mary's Health Center in the County of St. Louis, Missouri.

4. This action against the United States of America arises under the Federal Tort Claims Act, 28 U.S.C. §1346(b), 2671-80, as hereinafter more fully appears.

5. The wrongful acts and/or omissions of which plaintiffs complain occurred in the Eastern Judicial District of Missouri, Eastern Division.

6. At all times mentioned, the agents, servants and employees of defendant Saint Louis University who rendered care and treatment to Plaintiffs were acting within the scope and course of their employment and/or agency for defendant Saint Louis University.

7. At all times mentioned, the agents, servants and employees of defendant SSM Healthcare St. Louis d/b/a/ SSM St. Mary's Health Center who rendered care and treatment to Plaintiffs were acting within the scope and course of their employment and/or agency for defendant SSM Healthcare St. Louis d/b/a SSM St. Mary's Health Center.

8. At all times herein mentioned, the agents, servants and employees of the Peoples Health Center, were acting within the scope and course of their employment and/or agency for Peoples Health Center.

9. In 2012, Raven Patrick was pregnant and came under the care of the physicians, nurses, and healthcare providers at the Peoples Health Center for pre-natal care; that on or about the 6th day of February, 2013 she was admitted to the SSM St. Mary's Health Center and from that time until the birth of D.J. on February 7, 2013, she was under the care of the agents, servants, and employees of Saint Louis University, SSM Healthcare St. Louis d/b/a SSM St. Mary's Health Center and Peoples Health Center.

10. The agents, servants, and employees of all defendants were negligent and careless in their care and treatment of plaintiffs Raven Patrick and D.J.

11. As a direct and proximate result of the negligence and carelessness of defendants, individually and collectively, acting by and through their agents, servants and employees, Plaintiff D.J. was seriously, permanently and painfully injured in that he suffered, now suffers and will in the future suffer severe neurological deficits; his ability to work, labor, and enjoy life has been, and will in the future be, impaired, limited and destroyed; and he has been, and will in the future be, required to expend sums for medical, drug, nursing, attendant care and education expenses in an amount as yet unknown.

12. The Federally Supported Health Centers Assistance Act of 1992 Public Law No. 102-501, 42 U.S.C. 233 (g) (k), and the amended Federally Supported Health Centers Assistance Act of 1995, Public Law No. 104-73, 42 U.S.C. 201, provide that the Federal Tort Claims Act is the exclusive remedy for injuries caused by employees of a deemed community health center which occurred on or after January 1, 1993 or when the Health Center was deemed eligible for coverage. The Peoples Health Center was deemed eligible for Federal Tort Claims Act coverage on December 31, 1993, re-deemed on June 23, 1996 and was further re-deemed through 2013.

13. Pursuant to 28 U.S.C. § 2675 (a), the claims of Plaintiffs for injuries caused by employees of Peoples Health Center set forth herein were presented to the Department of Health and Human Services on June 3, 2013, and said claims were acknowledged to have been received by the Department of Health and Human Services on June 13, 2013. Said agency having failed to make a final disposition of the claim within six (6) months, Plaintiffs deem such failure to be a denial thereof.

WHEREFORE, Plaintiff D.J. prays judgment against defendants, individually and collectively, under this Count I, in the amount of TWENTY MILLION DOLLARS and 00/100 (\$20,000,000.00) and for his costs herein expended.

COUNT II

COMES NOW Raven Patrick and for her individual cause of action against Defendants, individually and collectively, under this Count II, states and alleges as follows:

1. She is the mother of D.J. who was born on February 7, 2013.
2. She restates, realleges and incorporates by reference paragraphs 2 through 13 of Count I of this Complaint and make the same, by this reference, a part of this Count II.
3. As a direct and proximate result of the errors, omissions and negligence of defendants, individually and collectively, acting by and through their agents, servants and employees, Plaintiff Raven Patrick has been caused to incur expenses for the necessary care and treatment of D.J. and will in the future be caused to incur further medical expenses, drug, nursing expenses and other expenses to care for D.J. in an amount yet to be determined.

WHEREFORE, the premises considered, Plaintiff Raven Patrick prays judgment against Defendants, individually and collectively, under this Count II, in the amount of FIVE MILLION DOLLARS and 00/100 (\$5,000,000.00) and for her costs herein expended.

/s/ Myron S. Zwibelman

Myron S. Zwibelman, #21522MO

WALTHER/ZWIBELMAN LAW ASSOCIATES

230 S. Bemiston Ave., Ste 500

St. Louis, MO 63105

Phone: (314) 725-9595

FAX: (888) 851-4940

Email: mzwib@wzlawassociates.com

/s/ Todd Nissenholtz

Todd Nissenholtz, #55049MO

COFMAN TOWNSLEY, P.C.

200 South Hanley Road, Suite 1070

St. Louis, MO 63105

Phone: (314) 621-2005

FAX: (314)-621-3118

Email: tn@cofmantownsley.com